6/27/77 [3]

Folder Citation: Collection: Office of Staff Secretary; Series: Presidential Files; Folder: 6/27/77 [3]; Container 28

To See Complete Finding Aid:
http://www.jimmycarterlibrary.gov/library/findingaids/Staff%20Secretary.pdf

THE WHITE HOUSE
WASHINGTON

June 27, 1977

Bob Lipshutz
Stu Eizenstat

The attached was returned in the President's outbox. It is forwarded to you for your information.

Rick Hutcheson

Re: Grand Jury Reform Testimony

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

June 26, 1977

Stu - In general, I agree w/ the Griffin's positions.
T.C.

MEMORANDUM FOR THE PRESIDENT

FROM: BOB LIPSHUTZ
STU EIZENSTAT
ANNIE GUTIERREZ

SUBJECT: Grand Jury Reform Testimony

The Justice Department is scheduled to testify Wednesday on H.R. 94, Congressman Eilberg's bill to reform significantly the Federal grand jury process. Although that bill (or any other grand jury reform bill) stands little chance of Congressional action this year, the testimony on H.R. 94 does carry a significance meriting your personal attention.

The grand jury system has attracted considerable public attention over the last several years as abuses, especially those involving political matters, have been documented. As a result, many prominent groups concerned with criminal justice have focused their efforts on changing grand jury procedures in order to more fully protect the rights of those subpoenaed. They command public attention and considerable support.

For that reason, the testimony on H.R. 94 will be well publicized, and will likely be regarded as an early litmus test of the Administration's commitment to criminal justice reform and civil liberties. The Administration will clearly be viewed as failing that test if the Justice Department testimony is delivered in its present form, for nearly every reform proposed in H.R. 94 is strongly opposed. Indeed the testimony supports fewer proposed reforms than the Criminal Justice Division of the American Bar Association. In some areas, several states have already adopted the reforms opposed by the Justice Department, with no apparent adverse effect on enforcement of those states' criminal laws. The Justice Department testimony would place the Administration out of step with many of these reform-minded states.

Over the past two weeks, we have tried to resolve as many differences as possible between our views and those of the Justice Department. These are the issues which are unresolved and require your guidance. In many instances we have taken a middle ground between the Justice position and the more reform-minded position set out in H.R. 94 and proposed by the ABA's Criminal Justice Division.

1. Imprisonment of Witnesses

Present Law: A grand jury witness may be imprisoned for up to 18 months for refusing to answer a question. Each subsequent refusal before the grand jury to answer the same question subjects the witness to another possible 18 months imprisonment. In addition, refusal to answer the same question at trial can cause another 6 months imprisonment.

H.R. 94: A witness could be imprisoned for no more than 6 months for refusing to answer questions before a grand jury; no subsequent confinement would be permitted for refusing to answer questions about the same transaction. (ABA's Criminal Justice Division supports this position.)

Department of Justice: Any change in present law is opposed out of a belief that (i) a witness has an obligation to testify as long as any proceeding on a transaction is pending; (ii) imprisonment can always be ended by a judge who believes that further incarceration would not force a witness to testify; and (iii) a single confinement per transaction might encourage witnesses to refuse to testify before a grand jury, be incarcerated, testify before the grand jury, and then refuse to testify at trial.

Recommended Approach: Imprisonment could be limited to 6 months for an initial and any subsequent refusal to testify before a grand jury; refusal at trial to answer questions about the same transaction would subject the witness to an additional 6 months imprisonment. This approach, unlike H.R. 94, does not permit a witness to escape imprisonment for refusing to testify at trial solely because a term of 6 months has been served for refusing to testify before the grand jury. But this approach does set a more reasonable limit on imprisonment for a person not charged with a crime (which is the case with a grand jury witness), and aligns us with some reform of the current law.

Option 1. _____ Limit incarcerations to 6 months for refusing to testify before grand jury; refusing to testify at trial on same transaction could not result in additional incarceration. (H.R. 94 and ABA's Criminal Justice Division.)

Option 2. _____ Maintain present law permitting successive 18-month incarcerations for refusing to answer the same questions before the grand jury and an additional 6 months for refusal at trial. (Justice recommends.)

Option 3. _____ Limit incarcerations to 6 months for refusal to testify before a grand jury about the same questions; but continue to permit subsequent incarcerations for refusal to testify about those questions at trial. (We recommend.)

2. Successive Grand Jury Investigations

Present Law: Prosecutors may initiate an unlimited number of grand jury investigations on the same subject matter.

H.R. 94: A prosecutor could not initiate a subsequent grand jury investigation on a subject matter about which the previous grand jury has failed to return an indictment, unless a court found that new evidence had been discovered. (ABA is silent on this issue.)

Department of Justice: Present law should be maintained, for a grand jury may fail to indict for a number of technical legal reasons (such as improper venue), which are totally unrelated to whether evidence exists for a subsequent grand jury to justify an indictment.

Recommended Approach: A prosecutor could continue to initiate subsequent grand jury investigations unless a previous grand jury failed to return an indictment for reasons relating directly to the merits of the evidence presented to it; technical reasons for failure to indict would not be a bar to subsequent investigations. (Criteria to be used in implementing the technical vs. merits distinction could be developed by Justice.) The advantage of this approach is that it is a middle ground between the concerns of Justice and those who believe successive investigations are used for harassment: technical reasons would not bar unlimited investigations, but a failure to indict on the merits of the evidence presented would prevent a prosecutor from initiating another grand jury investigation.

Option 1. _____ Bar subsequent grand jury investigations (unless new evidence is discovered) where first one has produced no indictment. (H.R. 94)

Option 2. _____ Maintain present law of unlimited grand jury investigations concerning this same subject matter. (Justice recommends.)

Option 3. _____ Prohibit successive investigations if a grand jury has failed to indict on the merits, unless additional evidence is discovered. (We recommend.)

3. Duty to Present Exculpatory Evidence

Present Law: A prosecutor is not required to present a grand jury with available evidence that is favorable to an accused.

H.R. 94: A prosecutor would be required to present evidence, as opposed to simply disclosing whatever evidence the prosecutor might have, which tends to negate the guilt of an accused.

Department of Justice: A prosecutor who knows of substantial evidence which directly tends to negate an accused's guilt should disclose that evidence to the grand jury; but that obligation should depend upon a prosecutor's responsibility as an officer of the court and not upon any statutory requirement.

Recommended Approach: Any evidence which a prosecutor knows will tend to negate guilt or preclude an indictment must be disclosed to the grand jury. This approach, identical to that supported by the ABA's Criminal Justice Division, would give the accused the same rights they now have at trial (where prosecutors must disclose such evidence). However, this approach, or any approach, would be unenforceable and therefore carry little weight unless codified. (The ABA's Code of Professional Responsibility already requires disclosure of exculpatory evidence; but it cannot be enforced in the same manner as a statute.)

Option 1. _____ The prosecutor must present evidence negating the guilt of the accused. (H.R. 94)

Option 2. _____ The prosecutor should disclose substantial evidence which tends to exculpate an accused; but this obligation should not be codified. (Justice recommends.)

Option 3. _____ Evidence must be disclosed which a prosecutor knows will tend to negate guilt or preclude an indictment; this requirement should be codified. (ABA's Criminal Justice Division supports; we recommend.)

4. Counsel for Witnesses in the Grand Jury Room

Present Law: Witnesses are not permitted counsel in the grand jury room, although they may leave the room to consult with counsel whenever they wish.

H.R. 94: Witnesses could be accompanied by counsel, though counsel would be permitted only to advise the witness and not address the jurors or take part in the proceedings. The judge would be authorized to remove any counsel who delayed or impeded the grand jury proceeding. (The ABA's Criminal Justice Division supports this position; 9 states already permit counsel in the grand jury room for all witnesses.)

Department of Justice: Present law should be maintained because: (i) counsel might cause delay and make the proceedings adversary in nature; (ii) the opportunity for breach of grand jury secrecy would be increased; (iii) counsel will challenge indictments on technical grounds, thereby slowing trial proceedings; and (iv) witnesses at trial do not normally have counsel.

Recommended Approach: Witnesses who are the "target" of an investigation could be allowed counsel in the grand jury room, though only for purposes of advice and not participation in the proceedings. This approach would provide counsel only for those witnesses who are clearly in jeopardy of indictment and in need of legal representation. Because of the limited role that counsel can play, their presence in the grand jury room would not appear to either change dramatically the grand jury process or impede the routine development of evidence by the grand jury.

Option 1. _____ Maintain present law and bar counsel in the grand jury room. (Justice recommends.)

Option 2. _____ Allow all witnesses to have counsel in the grand jury room, though only for the purposes of advice and not participation in the proceedings. (H.R. 94 and ABA's Criminal Justice Division.)

Option 3. _____ Allow only "target" witnesses to bring counsel into the grand jury room, though only for purposes of advice. (We recommend.)

5. Grand Jury Recording and Transcript Availability

Present Law: Recording by the government of grand jury proceedings is permitted, but not mandatory; the prosecutor

may stop any recording when speaking to the grand jurors. If a witness' testimony is recorded, that witness is not entitled to see a transcript of the testimony prior to trial.

H.R. 94: Except for the deliberations between grand jurors, the entire grand jury proceeding would be recorded; witnesses would be entitled to a copy of the transcript of the transcript of their testimony. (ABA's Criminal Justice Division supports.) This is our recommended position.

The purposes of recording and transcript review are: (i) to provide evidence of any prosecutorial misconduct (which makes the recording of prosecutors' remarks to grand jurors especially important) and (ii) to permit witnesses to prepare more fully for trial by reviewing their earlier statements.

Department of Justice: Grand jury proceedings would be recorded, except for deliberations between grand jurors and for exchanges between the prosecutor and the grand jurors. Witnesses should not be permitted to see a transcript of their testimony, for (i) sufficient safeguards against prosecutorial misconduct already exist and (ii) increased litigation over the conduct of grand jury proceedings would occur.

Option 1. _____ Record grand jury proceedings, except jurors' deliberations and prosecutors' remarks; transcript not available to witness. (Justice recommends.)

Option 2. _____ Record grand jury proceedings, except for jurors' deliberations; witness would be entitled to see transcript of his own testimony. (H.R. 94 and ABA's Criminal Justice Division support; we recommend.)

6. Subpoena of Grand Jury Witnesses

Present Law: A grand jury in one jurisdiction may subpoena a witness who resides in another jurisdiction; that witness can challenge the subpoena only by going to a court in the grand jury's jurisdiction.

H.R. 94: A witness subpoenaed by a grand jury would be able to challenge that subpoena in either the jurisdiction of the grand jury or the jurisdiction of the witness' residence.

Department of Justice: Present law should be retained; it is impractical to have courts in various jurisdictions determining whether subpoenas from a grand jury in one jurisdiction are valid.

Recommended Approach: A subpoena could be challenged in a jurisdiction convenient to a subpoenaed witness if the federal court in that jurisdiction believed circumstances would place a hardship on the witness' effort to challenge the subpoena in the grand jury's jurisdiction. (ABA's Criminal Justice Division supports.) This approach would enable witnesses unable to afford a cross-country trip to challenge a subpoena to do so in their home jurisdiction; but it would not completely open the door to such challenges, for a court would have to determine the extent of any hardship.

Option 1. _____ Witness would have option of challenging subpoena in either grand jury's jurisdiction or in witness' home jurisdiction. (H.R. 94)

Option 2. _____ Retain present law allowing challenges to subpoenas only in grand jury's jurisdiction. (Justice recommends.)

Option 3. _____ Allow challenges to a subpoena in a convenient jurisdiction if a court finds a hardship is created by a challenge elsewhere. (ABA's Criminal Justice Division supports; we recommend.)

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

INFORMATION 27 June 1977

TO: THE PRESIDENT

FROM: RICK HUTCHESON

SUBJECT: DoJ Memo on Grand Jury Reform

The DoJ positions are summarized in the Eizenstat/Lipshutz memo. The following excerpts from the Justice memo will give you the philosophy behind the DoJ positions.

"The primary serious faults with... HR 94 is that it converts the fundamental purpose and function of the Grand Jury from a vigorous investigatory and charging body to initiate criminal proceedings by finding probable cause into a ponderous limited adversarial-like proceeding with safeguard motions and petitions more akin to hearings or trials to determine guilt or innocence. It imposes so many legislative restrictions and obstacles to Grand Jury action to obtain evidence of crime from witnesses that it endangers the Grand Jury's ability to get or even review evidence timely and it risks the dismissal of sound indictments against criminal defendants (windfall) for technical errors or omissions as to witnesses only. It adds new uncontrollable procedures and practices and some obviously duplicative ones which will fragment prosecutive supervision and policy which is now properly in the executive branch under the direction of the Attorney General and the Department of Justice."

Other points:

- the ABA Section on criminal justice is composed largely of criminal defense lawyers

- HR 94 fundamentally changes the functions and distinctions between the Grand Jury system (investigatory, charging and nonadversarial) and the trial process (adversarial, multi-faceted safeguards for determination of guilt and innocence).

- would delay Grand Jury proceedings enormously

- would materially restrict law enforcement in such areas as drug abuse, white collar crime, public corruption and organized crime

xc: ANNIE

Office of the Attorney General
Washington, D. C. 20530

MEMORANDUM FOR: The President

FROM: The Attorney General by BRC

SUBJECT: H.R. 94 and Grand Jury Reform

1. The ABA Section on Criminal Justice 1/ recommends 26 principles of Grand Jury Reform to the ABA Executive Council and House of Delegates. The Department of Justice after considerable review and discussion 2/ supports fully 15 of these principles 3/ and supports in substantial part and spirit four more (19 of 26). 4/

1/ This Section is composed largely of criminal defense lawyers.

2/ The Department has met with and carefully considered the views of representatives of the Grand Jury Committee of the Criminal Justice Section which drafted the standards

The Coalition to End Grand Jury Abuse
U. S. Attorneys Advisory Committee
The National District Attorneys Association
The Supreme Court's Advisory Committee on Criminal Rules

The Department's positions and prospective testimony have been reviewed by the Criminal Division, the Tax Division, the Antitrust Division, the Civil Rights Division and the Office for Improvements in the Administration of Justice.

3/ Attached as Exhibit 1 is an abbreviated statement of the 26 principles and a notation of the Department of Justice approval or opposition. The full text of the principles is Exhibit 2.

4/ Department of Justice supports fully principles 3, 7, 8, 9, 10, 11, 12, 14, 17, 20, 21, 22, 23, 24 and 26. Department of Justice supports in part and spirit principles 2, 4, 5 and 16.

2. The Attorney General's positive attitude toward the protection and preservation of fundamental rights and the dedication and insistence on improvements in the administration of justice, including the Grand Jury system, is stated in the first three pages of the proposed testimony (attached as Exhibit 3) and repeated throughout that testimony where appropriate.

3. The Department opposes seven 5/ of the 26 standards as unwise because:

   a. They would fundamentally change the functions and distinctions between the Grand Jury system (investigatory, charging and nonadversarial) and the trial process (adversarial, multi-faceted safeguards for determination of guilt and innocence).

   b. They would delay proceedings in the Grand Jury and the Courts enormously.

   c. They would very materially restrict law enforcement especially in the already difficult high priority areas of drug abuse, white collar crime, public corruption and organized crime.

4. Three of the seven principles are opposed absolutely. They are:

   a. All witnesses shall have the right to a lawyer inside the Grand Jury Room (Principle 1).

      Opposition Reasons:

      (1) Grand Jury fact finding impaired and impeded. Lawyers will lawyer, object, insist on rephrasing questions, demand to see the Court, and consult continually with client-witness. Even witnesses at trials and other administrative proceedings do not have right to consult with counsel before responding to questions except in rare instances.

5/ Principles 1, 6, 13, 15, 18, 19 and 25.

(2) Delay to Grand Jury and added burden to District Court. No real need shown. Fifth Amendment rights pose no significant problem because readily asserted and counsel available outside Grand Jury Room for appropriate consultation if necessary.

(3) Provides further opportunity for substantial breach of Grand Jury secrecy which everyone abhors.

(4) Multitude of witnesses cannot readily afford counsel and substantial time, delay and cost to appoint counsel for indigents and middle nonindigent witnesses will testify without counsel with the most profitable and serious criminal violations.

(5) This proposal will provide a field day for defense counsel to attack sound indictments and tie up trial proceedings on technical grounds relating to third-party witnesses who merely gave Grand Jury evidence to establish probable cause.

b. On motions to quash Grand Jury subpoenas to witnesses prosecution must show relevancy and materiality of subpoena to Court (Principle 13).

Opposition Reasons:

(1) Totally reverses existing law and practice. At present, witness must show undue burden, illegality or harassment. Criminal lawyers will delight in reversal. Increase motions to quash ten-fold and tie up enormous amount of District Court time.

(2) In early and even middle part of Grand Jury investigations, Government may have difficult time showing clear relevancy and materiality to specific persons or crimes. Frequently, that is exactly what the Grand Jury intends to find out from witnesses.

c. Authority to grant immunity to compel witness to give evidence transferred from prosecutor (Department of Justice) to trial court on evidentiary showing to court (Principle 19).

Opposition Reasons:

(1) Immunity, as prosecutorial discretion, is executive branch function inappropriate for judicial branch and involves Court in matters very far from guilt or innocence or sentencing.

(2) Delay and multiple evidentiary hearings at a new level -- the Grand Jury or indictment stage.

(3) Probable disqualification of judges from presiding at trial on merits in any case in which Judge had weighted a witness's immunity. Substantial disability of federal criminal process of trials by Court.

5. H.R. 94 embodies only 12 of the 26 principles. 6/ We support fully four of its provisions and support in good part two more. The three ABA Section principles described in paragraph 3 (Principles 1, 13 and 19) are embodied in H.R. 94 and opposed. The remaining three H.R. provisions opposed are the same as ABA Section principles opposed as very unwise (Principles 15, 18 and 25).

6. H.R. 94 adds four new and different proposals which the Department of Justice vigorously opposes.

a. H.R. 94, section 6. Without knowing nature or specifics of any questions, any witness could submit a written claim of Fifth Amendment to Grand Jury which would bar his being called as a witness.

Opposition Reasons:

(1) Fifth Amendment only lawfully invoked to specific questions. Permits abuse of Fifth Amendment privilege by blanket assertion and denial to appear.

6/ Section 2 (P. 25), Section 3 (P. 18 and 19), Section 5 (P. 7, 22 and 24), Section 6 (P. 2 and 4), Section 7 (P. 1, 2, 10 and 15), Section 8 (P. 16).

(2) Deprives Grand Jury of proper unprotected evidence to which no privilege applies.

(3) Alleged embarrassment to witness by invocation in Grand Jury is really de minimis.

b. H.R. 94, section 6. If one grand jury's term expired or it ceased to investigate a matter without indictment for any reason, no other or subsequent Grand Jury could investigate the same subject matter absent showing of newly discovered evidence.

Opposition Reasons:

(1) Grand Jury stop investigating or terminate for any number of reasons totally unrelated to determination of lack of probable cause or even when probable cause exists. For example, proper venue is in different district, more convenient forum in different district, number of Grand Jurors falls below required sixteen on regular basis, expire on basis of time before evidence is all obtained or assembled. Therefore, there is not even apparent soundness to the provision.

(2) The idea that in some way double jeopardy notions apply to Grand Jury proceedings or probable cause determinations is untrue and unsound. Constitution principles of double jeopardy apply on in trials on the merits which expose defendants to the jeopardy of determination of guilt.

c. H.R. 94, section 6. Grand Jury could obtain special attorney in lieu of Department of Justice prosecutor by request to and appointment by Court.

Opposition Reasons:

(1) Unconstitutional. Gives executive brach function to judicial branch for appointment and to independent attorney not subject to executive branch control.

(2) Unequal justice. Multiple special attorneys, multiple standards and individual notions of prosecution priorities.

(3) Bad management generally creating havoc in application of principles and established Department of Justice criteria.

(4) Wasteful time and costly in light of hundreds of Grand Juries sitting throughout country.

d. H.R. 94, section 9. After Grand Jury determined evidence showed probable cause of crime and indictment was filed, all defendants would be entitled to a preliminary hearing for Court to determine probable cause again. (Repeal Title 18, USC 3060(e))

Opposition Reasons:

(1) Nonsensical duplication of determination of probable cause to indict by Court which is exactly what Grand Jury will have just done in its deliberations.

7. The primary serious faults with the focus and thrust of H.R. 94 is that it converts the fundamental purpose and function of the Grand Jury from a vigorous investigatory and charging body to initiate criminal proceedings by finding probable cause into a ponderous limited adversarial-like proceeding with safeguard motions and petitions more akin to hearings or trials to determine guilt or innocence. It imposes so many legislative restrictions and obstacles to Grand Jury action to obtain evidence of crime from witnesses that it endangers the Grand Jury's ability to get or even review evidence timely and it risks the dismissal of sound indictments against criminal defendants (windfall) for technical errors or omissions as to witnesses only. It adds new uncontrollable procedures and practices and some obviously duplicative ones which will fragment prosecutive supervision and policy which is now properly in the executive branch under the direction of the Attorney General and the Department of Justice.

Exhibit 1

ABA Section of Criminal Justice 26 Principles

1. Lawyers for all witnesses inside GJ Room
   DOJ OPPOSES absolutely.
   (Supreme Court Advisory Committee on Criminal Rules,
   U.S. Attorney Advisory Committee, National Association
   of District Attorneys all oppose)

2. H.R. 96, Section 6 - Prosecutor to disclose to GJ any evidence which tends to negate guilt.
   DOJ SUPPORTS in principle and spirit. It is the practice and should be administrative directive.
   H.R. 94, any evidence which might impeach or might exculpate.
   DOJ OPPOSES legislative impossible standards of "tend" or "might".

3. Prosecutor should recommend no indictment if evidence insufficient.
   DOJ SUPPORTS
   H.R. 94 - no provision.

4. Subject of investigation given right to testify and prosecutor must notice.
   DOJ SUPPORTS in appropriate instances notice and opportunity to target to testify.
   DOJ OPPOSES "subject" "notice" and "opportunity".
   H.R. 94 - Notice and Opportunity to Targets
   DOJ OPPOSES legislation - favor administrative role.

5. GJ shall not consider unconstitutional evidence.
   DOJ SUPPORTS in spirit -
   DOJ OPPOSES the absolute - standard too difficult to apply at presentment stage.

6. Indictments shall not name unindicted co-conspirators.
   DOJ OPPOSES - Unwise; less culpable more likely to be indicted if this method for completeness barred.
   H.R. 94 - no provision.

7. No defaming and scornful GJ reports.
   DOJ SUPPORTS
   H.R. 94 - no provision.

8. NO GJ use for trial preparation in pending case.
   DOJ SUPPORTS
   H.R. 94 - no provision

9. No GJ to be used for administrative inquiry.
   DOJ SUPPORTS
   H.R. 94 - no provision.

10. No unreasonable delay, harassment or repeated appearances.
    DOJ SUPPORTS

11. No approval from GJ necessary for issuance of subpoena.
    DOJ SUPPORTS
    H.R. 94 - no provision.

12. GJ subpoena should state statute and general subject.
    DOJ SUPPORTS in part.
    YES - general subject; NO - statute
    H.R. 94, Section 7 - five notice requirements
    DOJ SUPPORTS three

13. On motion to quash GJ subpoena, Government has burden of showing relevant and material and within GJ investigation.
    DOJ OPPOSES absolutely
    H.R. 94 - no provision.

14. Subpoena returnable only when GJ sitting.
    DOJ SUPPORTS
    H.R. 94 - no provision

15. Motions to quash brought in Court of witnesses location rather than Court where Grand Jury is formed and conducting its proceedings.
    DOJ OPPOSED - Venue for protection of defendant. Waste in many proceedings in many districts.
    H.R. 94, Section 7 - Added rights for witnesses to more entire proceedings
    DOJ OPPOSED - Fragment investigation into many different scattered proceedings.

16. Everything before GJ should be recorded except deliberations.
    DOJ SUPPORTS in part. All testimony recorded. No Jury colloquy or legal discussion.
    H.R. 94, Section 8 - Same plus right to Defendant to obtain transcripts prior to trial.
    DOJ OPPOSES in part

17. No prosecutor arguments to GJ not permissible at trial.
    DOJ SUPPORTS
    H.R. 94 - no provision.

18. Change from use immunity to transactional immunity.
    DOJ OPPOSES - Goes beyond constitutional rights; protects the guilty.
    H.R. 94, Section 3 - same
    DOJ OPPOSES

19. Immunity transferred from DOJ to District Court.
    DOJ OPPOSES absolutely - Prosecutive policy and application properly in executive branch.
    H.R. 94, Section 3 - Same
    DOJ OPPOSES

20. Granting of immunity should not be a matter of public record.
    DOJ SUPPORTS
    H.R. 94 - Same

21. No multiple representation of GJ witneses where conflict of interest.
    DOJ SUPPORTS - Recommends absolute prohibition.
    H.R. 94 - no provision

22. Identities of all witnesses secret.
    DOJ SUPPORTS
    H.R. 94 - no provision

23. Full charge in writing by Court at GJ initiation
    DOJ SUPPORTS and recommends copies available to GJ

24. All GJ conducted with consideration of preservation of freedom, attorney-client relations and comparable values
    DOJ SUPPORTS
    H.R. 94 - no provision

25. Confinement for witness, without lawful right to REFUSE to testify, limited to 6 months.
    DOJ OPPOSED - Limit now 18 months lesser time within Court's discretion.
    H.R. 94 - Same plus other restrictions

26. Court shall impose appropriate sanctions for violation of principles
    DOJ SUPPORTS

Exhibit 2

MAY 1977

AMERICAN BAR ASSOCIATION

REPORT TO THE
HOUSE OF DELEGATES

SECTION OF CRIMINAL JUSTICE

RECOMMENDATION

The Section of Criminal Justice recommends adoption of the following resolutions:

BE IT RESOLVED, That the American Bar Association support in principle grand jury reform legislation which adheres to the following principles:

OPPOSE 1. Expanding on the already-established ABA policy, a witness before the grand jury shall have the right to be accompanied by counsel in his or her appearance before the grand jury. Such counsel shall be allowed to be present in the grand jury room only during the questioning of the witness and shall be allowed to advise the witness. Such counsel shall not be permitted to address the grand jurors or otherwise take part in proceedings before the grand jury. The court shall have the power to remove such counsel from the grand jury room for conduct inconsistent with this principle.

SUPPORT IN PRINCIPLE 2. The prosecutor shall disclose to the grand jury any evidence which he or she knows will tend to negate guilt or preclude the finding of an indictment.

SUPPORT 3. A prosecutor should recommend that the grand jury not indict if he or she believes the evidence presented does not warrant an indictment under governing law.

SUPPORT IN PART. 4. A subject of a grand jury investigation shall be given the right to testify before the grand jury, provided he/she signs a waiver of immunity. Prosecutors shall notify such subjects of their opportunity to testify unless notification may result in flight or endanger other persons; or the prosecutor is unable with reasonable diligence to notify said persons.

SUPPORT IN PART 5. The grand jury shall not consider unconstitutionally obtained evidence.

OPPOSE 6. The grand jury shall not name a person in an indictment as an unindicted co-conspirator to a criminal conspiracy.

SUPPORT 7. A grand jury should not issue any report which singles out persons to impugn their motives, hold them up to scorn or criticism or speaks of their qualifications or moral fitness to hold an office or position. No grand jury report shall be accepted for filing and publication until the presiding judge submits in camera a copy thereof to all persons named or identifiable and such persons are given the opportunity to move to expunge any objectionable portion [illegible] a final judicial determination prior to

19. Immunity transferred from DOJ to District Court.
DOJ OPPOSES absolutely - Prosecutive policy and application properly in executive branch.
H.R. 94, Section 3 - Same
DOJ OPPOSES

20. Granting of immunity should not be a matter of public record.
DOJ SUPPORTS
H.R. 94 - Same

21. No multiple representation of GJ witneses where conflict of interest.
DOJ SUPPORTS - Recommends absolute prohibition.
H.R. 94 - no provision

22. Identities of all witnesses secret.
DOJ SUPPORTS
H.R. 94 - no provision

23. Full charge in writing by Court at GJ initiation
DOJ SUPPORTS and recommends copies available to GJ

24. All GJ conducted with consideration of preservation of freedom, attorney-client relations and comparable values
DOJ SUPPORTS
H.R. 94 - no provision

25. Confinement for witness, without lawful right to REFUSE to testify, limited to 6 months.
DOJ OPPOSED - Limit now 18 months lesser time within Court's discretion.
H.R. 94 - Same plus other restrictions

26. Court shall impose appropriate sanctions for violation of principles
DOJ SUPPORTS

Exhibit 2

MAY 1977

AMERICAN BAR ASSOCIATION

REPORT TO THE
HOUSE OF DELEGATES

SECTION OF CRIMINAL JUSTICE

RECOMMENDATION

The Section of Criminal Justice recommends adoption of the following resolutions:

BE IT RESOLVED, That the American Bar Association support in principle grand jury reform legislation which adheres to the following principles:

OPPOSE 1. Expanding on the already-established ABA policy, a witness before the grand jury shall have the right to be accompanied by counsel in his or her appearance before the grand jury. Such counsel shall be allowed to be present in the grand jury room only during the questioning of the witness and shall be allowed to advise the witness. Such counsel shall not be permitted to address the grand jurors or otherwise take part in proceedings before the grand jury. The court shall have the power to remove such counsel from the grand jury room for conduct inconsistent with this principle.

SUPPORT IN PRINCIPLE 2. The prosecutor shall disclose to the grand jury any evidence which he or she knows will tend to negate guilt or preclude the finding of an indictment.

SUPPORT 3. A prosecutor should recommend that the grand jury not indict if he or she believes the evidence presented does not warrant an indictment under governing law.

SUPPORT IN PART. 4. A subject of a grand jury investigation shall be given the right to testify before the grand jury, provided he/she signs a waiver of immunity. Prosecutors shall notify such subjects of their opportunity to testify unless notification may result in flight or endanger other persons; or the prosecutor is unable with reasonable diligence to notify said persons.

SUPPORT IN PART 5. The grand jury shall not consider unconstitutionally obtained evidence.

OPPOSE 6. The grand jury shall not name a person in an indictment as an unindicted co-conspirator to a criminal conspiracy.

SUPPORT 7. A grand jury should not issue any report which singles out persons to impugn their motives, hold them up to scorn or criticism or speaks of their qualifications or moral fitness to hold an office or position. No grand jury report shall be accepted for filing and publication until the presiding judge submits in camera a copy thereof to all persons named or identifiable and such persons are given the opportunity to move to expunge any objectionable portion of said report and have a final judicial determination prior to the report's

being published or make public. Such motion to expunge shall be made within ten days of receipt of notice of such report. Hearings on such motions shall be held in camera.

SUPPORT 8. The grand jury should not be used by the prosecutor in order to obtain tangible, documentary or testimonial evidence to assist the prosecutor in preparation for trial of a defendant who has already been charged by indictment or information. However, the grand jury should not be restricted in investigating other potential offenses of the same or other defendants.

SUPPORT 9. The grand jury should not be used by the prosecutor for the purpose of aiding or assisting in any administrative inquiry.

SUPPORT 10. Witnesses who have been summoned to appear before a grand jury to testify or to produce tangible or documentary evidence should not be subjected to unreasonable delay before appearing or unnecessarily repeated appearances or harassment.

SUPPORT 11. It shall not be necessary for the prosecutor to obtain approval of the grand jury for a grand jury subpoena.

SUPPORT IN PART 12. A grand jury subpoena should indicate the statute or general subject area that is the concern of the grand jury inquiry.

OPPOSE 13. In any case in which a subpoenaed witness moves on proper grounds to quash a grand jury subpoena, the prosecutor should be required to make a reasonable showing in camera and on the record before the court convening the grand jury that the evidence being sought is:

(a) relevant to the grand jury investigation;
(b) properly within the grand jury's investigation; and
(c) not sought primarily for another purpose.

SUPPORT 14. A subpoena should be returnable only when the grand jury is sitting.

OPPOSE 15. When the circumstances make it reasonable, motions to quash or modify subpoenas may be brought at the place where the witness resides, the documents sought are maintained, or before the court which issued the subpoena at the election of the witness. Such motions should be heard in camera and on the record.

SUPPORT IN PART AND SPLIT 16. All matters before a grand jury, including the charge by the impaneling judge, if any; any comments or charges by any jurist to the grand jury at any time; any and all comments to the grand jury by the prosecutor; and the questioning of and testimony by any witness, shall be recorded either stenographically or electronically. However, the deliberations of the grand jury shall not be recorded.

SUPPORT 17. The prosecutor should not make statements or arguments in an effort to influence grand jury action in a manner which would be impermissible at trial before a petit jury.

OPPOSE 18. Expanding on the already-established ABA position favoring transactional immunity, immunity should be granted only when the testimony sought is in the public interest; there is no other reasonable way to elicit such testimony; and the witness has refused to testify or indicated an intent to invoke the privilege against self-incrimination.

OPPOSE 19. Immunity shall be granted on prosecution motion in camera by the trial court which convened the grand jury, under standards expressed in Principle #18.

SUPPORT 20. The granting of immunity in grand jury proceedings should not be a matter of public record prior to the issuance of an indictment or testimony in any cause.

SUPPORT 21. A lawyer or lawyers who are associated in practice should not continue multiple representation of clients in a grand jury proceeding if the exercise of his or her independent professional judgment on behalf of one of the clients will be or is likely to be adversely affected by his or her representation of another client. If the court determines that this principle is violated, it may order separate representation of witnesses, giving appropriate weight to an individual's right to counsel of his or her own choosing.

SUPPORT 22. The confidential nature of the grand jury proceedings requires that the identity of witnesses appearing before the grand jury be unavailable to public scrutiny.

SUPPORT 23. It is the duty of the court which impanels a grand jury fully to charge the jurors by means of a written charge completely explaining their duties and limitations.

SUPPORT 24. All stages of the grand jury proceedings should be conducted with proper consideration for the preservation of freedom, attorney-client relationships, and comparable values.

OPPOSE 25. The period of confinement for a witness who refuses to testify before a grand jury and is found in contempt should not exceed 6 months.

SUPPORT 26. The court shall impose appropriate sanctions whenever any of the foregoing principles have been violated.

BE IT FURTHER RESOLVED, That the President of the Association or his designee be authorized to present testimony in support of the Association's position before the appropriate committees of Congress.

THE WHITE HOUSE

WASHINGTON

June 27, 1977

The Vice President
Midge Costanza
Stu Eizenstat
Hamilton Jordan
Bob Lipshutz
Frank Moore
Jody Powell
Jack Watson

Re: Cabinet Summaries

Please attach page 2 of Secretary Harris' report to the summaries sent to you earlier today.

Rick Hutcheson

THE WHITE HOUSE

WASHINGTON

June 27, 1977

EYES ONLY

The Vice President
Midge Costanza
Stu Eizenstat
Hamilton Jordan
Bob Lipshutz
Frank Moore
Jody Powell
Jack Watson

Re: Cabinet Summaries

The attached were returned in the President's outbox and are forwarded to you for your personal attention.

Rick Hutcheson

Attachments:
Reports from Transportation, Labor, Trade Negotiations, HEW, Defense, CEA, CEQ, Treasury, Justice, Interior, HUD, GSA, Commerce, Agriculture

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

C

MEMORANDUM TO: THE PRESIDENT

FROM: Jack Watson
Jane Frank

June 24, 1977

RE: Cabinet Summaries for Week of June 20 - 24, 1977; Miscellaneous Items

We are transmitting summaries received from the following:

Treasury	STR
Agriculture	HUD
CEA	Interior
Defense	Justice
GSA	Labor
HEW	Commerce

Miscellaneous Items

1. We have not transmitted a memorandum from Griffin Bell on foreign flag status, since you have received and commented upon a similar memorandum from the Commerce Department last week.

2. We are also holding a memorandum from Juanita Kreps stating that Dr. George Pratt, Special Assistant for Education, will be her representative on the Federal Interagency Working Group.

3. We have a memorandum from Brock Adams informing you that DOT is instituting all practical measures for waste paper recycling in federal buildings under DOT control.

4. We are holding a letter to you from Ray Marshall seeking an increase of 171 people in the 1978 personnel ceilings recently set by OMB. In staffing the matter through OMB, I understand that there is another request from Ray for some additional number of employees, over and above the 171. Rather than bring these issues to you piecemeal, I have asked OMB to prepare a memorandum covering both of these requests and will submit the whole package to you early next week.

THE WHITE HOUSE
WASHINGTON

June 27, 1977

Secretary Adams -

The attached was returned in the President's outbox. It is forwarded to you for appropriate handling.

Rick Hutcheson

Re: Aircraft Noise

THE PRESIDENT HAS SEEN.

cc Brock
J

THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

June 24, 1977

1977 JUN 24 PM 7 37

MEMORANDUM FOR THE PRESIDENT

THROUGH: Jack Watson

SUBJECT: Issues Pending at the Department of Transportation

This memorandum provides an update on issues currently pending or near decision at the Department of Transportation.

Aircraft Noise — ACTION

On Tuesday, June 21, I appeared before the Environment, Energy, and Natural Resources Subcommittee of the House Government Operations Committee to discuss the Noise Control Act of 1972, as it relates to aircraft noise. I told the Committee that substantial progress has been made in reducing noise and that current DOT/FAA actions can reduce the aircraft noise impact 73 percent by the year 2000.

In addition, I indicated that the Department is moving forward on a rulemaking for aircraft noise from supersonic airplanes (SSTs). The Department, through the FAA, is also working on U.S. "type certification" of the Concorde SST. This Federal safety determination is required before U.S. airlines may operate the Concorde. A few sensitive safety determinations are needed to complete the process. The FAA is also proceeding with action leading toward related Federal noise and operating regulations for SST aircraft, based on the SST test program at Dulles Airport. In this regard, a rigorous schedule has been established for issuing a notice of proposed rulemaking by September 1, 1977. Final regulatory action on noise rules and type certification, including environmental analysis, will be completed by February 1978. Included in this process will be one or more additional public hearings.

☐ I wish to participate in this decision.

☑ Proceed to a decision but keep me informed.

Fuel Economy — Information

On Sunday, June 26, I will appear on Face the Nation to announce the decision on automotive fuel economy standards for 1981-84 passenger cars. The Energy Policy and Conservation Act sets fleet averages of 20 miles per gallon (mpg) by 1980 and 27.5 mpg by 1985 and requires that the 1981-84 standards be set at maximum feasible values consistent with technology and economic practicality.

The standards should result in fuel savings of 590,000 barrels a day in 1985, and 1.2 million barrels a day in 1995, compared to fuel usage if vehicles continued to perform at 1980 statutory levels of 20 mpg. The savings to car owners at a gasoline price of 65¢ would amount to almost $900 over the life of the car to 1981 car owners and more than $1,000 to 1984 car owners, compared with 1977 cars. In conformance with your recent energy statement, we are continuing to review the ability of auto manufacturers to produce more fuel efficient autos, and we hope to be able to set more stringent standards for 1985 and beyond.

Airbags/Passive Restraint Decision — Information

I have an appointment with you on Monday, June 27, to discuss various options for improving the crash protection of automobile occupants by restraint systems. We have committed ourselves to making a decision and announcement by July 1.

THE WHITE HOUSE
WASHINGTON

Infomation

th Commerce, Justice and Interior,
Coast Guard has authorized the
Guard resources for enforcement
rning the salmon fisheries in waters
The resources to be employed are
e cutter, three 82 foot patrol boats,
id two helicopters. These forces,
ler, Thirteenth Coast Guard District,
rve as platforms for enforcement
ent of Justice and the Department

Locks and Dam 26 — Information

passed the Senate this week as part
ew 1200-foot lock and dam (#26) at
n marked the first time in recent history
s has approved any cost recovery from
's construction. The House must now
m 26 and waterway user charges should
to work on this matter to establish
r Federally financed transportation

cc Brock Adams

THE WHITE HOUSE
WASHINGTON

June 27, 1977

Secretary Marshall -

The attached was returned in the President's outbox. It is forwarded to you for appropriate handling.

Rick Hutcheson

Re: Minimum Wage
Labor Management Servi ces Administration-Steelworkers
Comprehensive Employment & Training Act (CETA)

THE WHITE HOUSE
WASHINGTON

cc Marshall

THE PRESIDENT HAS SEEN.

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

"FYI"

cc Ray

J

1977 JUN 24 PM 2 08

June 24, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: SECRETARY OF LABOR, Ray Marshall R.M.

SUBJECT: Major Departmental Activities, June 18-24

MINIMUM WAGE

At your request, we have begun to discuss a possible compromise with key legislators. On June 23, Charlie Schultze, Stu Eizenstat, Frank Moore and I met with Congressman Perkins and a representative of Congressman Dent. We presented our position, $2.60 per hour and 52 percent indexing. Their initial response was that these were not high enough, but they said that they would get back to us shortly with an alternative proposal. I think they will propose $2.65-$2.70 per hour and 54 percent indexing. I also talked with George Meany, who came by to inquire about our policy with respect to the use of alien workers, he said that anything less than 55 percent indexing would be unacceptable. He was less interested in the basic rate and would settle for $2.65 per hour.

no

INTERNATIONAL LABOR ORGANIZATION (ILO)

I am attaching our latest memo on the current situation in Geneva.

LABOR MANAGEMENT SERVICES ADMINISTRATION

Steelworkers

minimize it

Under the law, we are obligated to proceed with a full investigation of Ed Sadlowski's complaint on the Steelworkers election. However, we are developing amendments to the Landrum-Griffin Act to give the Labor

Department more flexibility in these situations. I have discussed this matter with Attorney General Bell.

United Mine Workers

As I reported in a separate memo last week, the Trustees of the United Mine Workers Health and Retirement Funds have ordered a reduction in health-care benefits beginning on July 1. This announcement has triggered wildcat strikes currently affecting about 30,000 miners, mostly in Kentucky and West Virginia. The Federal Mediation and Conciliation Service (FMCS) is attempting to resolve this issue. I am staying in close touch with Wayne Horvitz, the head of FMCS, and the parties involved. As I indicated to you, I have met with Jim Schlesinger to discuss the adequacy of our policies relating to the coal industry and we will review this issue with other agency heads.

EMPLOYMENT AND TRAINING--ECONOMIC STIMULUS PACKAGE

Youth Bill

In response to my report of June 17, you inquired about the participation of 14-year olds in the youth program. The majority of the participants will be between the ages of 16 and 21. However, I have discretionary authority to include 14 and 15-year olds. It makes sense to include these younger age groups if they have dropped out of school and show no indication of returning. We will use discretionary funds in this bill to experiment with a "GI Bill" concept to develop ways to encourage drop-outs to return to school. For example, young people might be given two months educational benefits for each month of satisfactory service in a work program. There seem to be no obstacles in Federal law to the participation of 14 and 15-year olds in this program if they are not involved in hazardous occupations.

Comprehensive Employment and Training Act (CETA)

Last week we enrolled more than 10,000 new participants in the jobs part of our stimulus program. Current enrollment is 329,428 which is 103.1 percent of our projections for this date. In May, we identified over 250,000 potential participants in this program. This figure--and the fact that over 60 percent of those receiving unemployment benefits were eligible and interested in CETA--suggest that we will have no serious recruitment problems. Our

Check Chicago TRIB story stating that city employees were hired at salaries up to $20000 under stimulus program - Report to me

first analysis of a small sample of the actual projects indicates that many are designated to enhance the quality of community life. They include cleaning up parks, caring for the elderly and children and various arts activities.

Attachment

SUMMARY - ILO Conference Activities Through June 16

1. Arab delegates are trying to implement a 1974 resolution charging Israel with violating trade union rights in the occupied territories. Attempts to pursue the investigation of Israel through legitimate ILO channels failed with Arab delegates walked out of the appropriate committee.

2. Attempts to establish a new mechanism for screening out extraneous political resolutions, strongly supported by the US, appear to have failed.

3. A resolution by a Panama delegate, condemning the US for discrimination in the Panama Canal Zone, was selected as a high priority by the ILO Resolutions Committee. However, it appears unlikely that the Conference will act on the resolution before the Conference adjourns.

4. US hopes to reach a more conciliatory dialogue on the ILO structural issues before the Conference (such as the veto power currently enjoyed by the 10 chief industrial states in the ILO) now seem remote.

5. A committee report critical of the USSR and Czechoslovakia for violations of "freedom of association" and "discrimination in employment" was not accepted by the Conference.

---Rick

THE WHITE HOUSE
WASHINGTON

June 27, 1977

Ambassador Strauss -

The attached was returned in the President's outbox. It is forwarded to you for appropriate handling.

Rick Hutcheson

Re: Shoe Agreement with Korea

THE PRESIDENT HAS SEEN.

C

THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS
WASHINGTON
20506

1977 JUN 24 PM 3 55

June 24, 1977

MEMORANDUM FOR THE PRESIDENT

From: Ambassador Robert S. Strauss RSS

Subject: Weekly Summary

To begin with, you worked that crowd pretty good last night. You ought to think about going into politics!

We completed the shoe agreement with Korea this week. Also this week, I made the decision to go public at what I felt was a counterproductive action by U.S. Steel in pushing their countervailing duty case towards summary judgment at a time when we are spending hours each day working on their problems. Interestingly, from The Wall Street Journal to The Washington Post, we have had editorial support and the steel companies are "taking another look at their hole card." Good

I have changed my contemplated European travel for the week after next and will go only to Brussels, with rescheduling of other major capitals in the fall. While in Brussels with the European Community, we will present a rather firm agenda for the kind of progress we think should be made by the end of the year with the Geneva negotiations. We have had several of our Geneva staff in Washington this week working with our staff people, laying out a six-month negotiating program which calls for a rather aggressive approach. We will use a number of approaches that haven't been used in the past and I have some modest optimism that we can build on your success at the Summit. Parenthetically, in my judgment, it would be exceedingly fortunate to get a substantive agreement by early 1979.

THE WHITE HOUSE
WASHINGTON

June 27, 1977

Secretary Califano -

The attached was returned in the President's outbox. It is forwarded to you for appropriate handling.

Rick Hutcheson

Re: Medicaid Fraud & Abuse

THE PRESIDENT HAS SEEN.

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201

June 24, 1977

1977 JUN 24 PM 5 05

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Weekly Report on HEW Activities

The following is my weekly report on significant activities within the Department of Health, Education, and Welfare.

- Appropriations Bill. It now appears that the Labor-HEW appropriations bill (H.R. 7555) will be on the Senate floor on Tuesday. As passed by the House, the bill contains aggregate appropriations of $54.5 billion, $1.4 billion more than our budget requested. The bill reported by the Senate Appropriations Committee would add about $796 million more than the House bill to controllable items.

  At this point, the staff of the Senate Appropriations Committee is aware of only three floor amendments. Senator Proxmire will offer an amendment to cut the bill back to the Administration's budget recommendations. Senators Cranston and Javits will offer an amendment increasing the appropriation of $4.4 million for ACTION (one of the related agencies whose appropriations are included in the Labor-HEW bill). Senator Kennedy may offer a package amendment which would include some increases and some reductions and which -- if adopted as discussed -- would result in a net reduction in the bill of about $100 million.

  Although we are obviously supporting your budget requests, we have not yet made a decision about the politics of the budget amendments noted above. I will be prepared to discuss this further at the Cabinet meeting.

- Desegregation of Higher Education. As you know, on April 1, Judge Pratt of the U. S. District Court for the District of Columbia ordered HEW to formulate guidelines to desegregate public statewide systems of higher education in six Southern states (Florida, Georgia, North Carolina, Virginia, Arkansas, and Oklahoma). Very difficult questions are involved in this case (now called Adams v. Califano). These include: the future existence of black colleges, the

extent to which black student enrollment in white colleges will increase, and the desegregation of faculty. HEW, working with Justice Department lawyers, has formulated tentative guidelines which are due to be submitted to the Court on June 29. Griffin Bell and I will brief you on this matter after Monday's Cabinet meeting.

- Medicaid Fraud and Abuse. Two weeks ago I described a new, systematic method of uncovering fraud and abuse in Medicaid, and reported that 172 apparently gross cases had been firmly identified and would become the subject of intensive investigation, leading to possible prosecution. As of June 23, we have validated a total of 694 cases for further investigation: 422 physicians and 272 pharmacists. This number will continue to increase in the coming weeks.

Try to put them in jail

- Solar Energy. On June 27, the Health Resources Administration will issue a formal request for proposals for demonstration projects testing the use of solar energy in hospitals and other types of health care facilities. By 1980, we hope to have a network of about 60 projects demonstrating the advantages of solar energy in health care facilities. The program, in cooperation with the Energy Research and Development Administration, will be funded on a cost-sharing basis, with about $20 million in Federal money. The first awards will be made by the end of 1977.

- Adolescent Pregnancy. Last week, we convened the first meeting of an intra-HEW task force on adolescent pregnancy and related social problems. It was formed to develop legislative and administrative proposals for FY 79. Policies and programs will be designed to assist adolescents in avoiding unwanted pregnancies and to provide support for adolescents who do become pregnant. Our goal is to find methods for reducing adverse health, social, and economic consequences and for promoting responsible parenthood. This effort will hopefully be an important element in strengthening the family as well as a major alternative-to-abortion initiative.

- Civil Rights Speech. At some point in the near future, I suggest that you give a general but strong speech on civil rights. Such a speech would obviously complement

your commitment to human rights and would help dissipate an increasingly divisive atmosphere in Congress on the subject. I am obviously not suggesting you give such an address while the Labor-HEW appropriations bill is in Congress. But after the appropriations battles, I do think a major Presidential address on equal opportunity would be an important signal to many people.

Joseph A. Califano, Jr.

ADDENDUM TO WEEKLY REPORT: JUNE 24, 1977

- Saccharin: The new Canadian evidence, based on human studies, that saccharin may cause cancer probably won't change the course of events in Congress very much. It is likely to strengthen Senator Kennedy's efforts this next week to write strong labelling and advertising warning requirements into the 18-month moratorium on the Food and Drug Administration's proposed saccharin ban. The moratorium still seems sure to be adopted in some form. The FDA reports that the new epidemiological evidence indicates a much higher probable incidence of bladder cancer for males than projected from the animal experiments. The agency is delaying decision on its ban until October to consider whether over-the-counter sales as now contemplated should also be prohibited.

Hale Champion

Hale Champion

THE WHITE HOUSE
WASHINGTON

June 27, 1977

Charlie Schultze -

The attached was returned in the President's outbox. It is forwarded to you for appropriate handling.

Rick Hutcheson

Re: Regulatory Reform
OMB/CEA/Treasury Relationships

THE PRESIDENT HAS SEEN.

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

June 24, 1977

1977 JUN 24 PM 3 50

MEMORANDUM FOR THE PRESIDENT

FROM: Charlie Schultze

SUBJECT: CEA Weekly Report

Budget Overview. CEA has prepared a new presentation of the economic and budgetary outlook through 1981, given alternative strategies. This will form the basis of our presentation to you next Friday on the 1979 budget. We will be discussing these materials with Bert Lance and Mike Blumenthal in advance of our meeting with you. Materials for that presentation have been under preparation this week, and will be available to you before the meeting.

Investment Study. The CEA staff has prepared a study on recent investment trends and their implications for tax policy that we intend to discuss next week with the Treasury Department. We are continuing to examine tax measures to stimulate investment that are alternatives to the integration proposal put forth by Treasury.

Regulatory Reform. The Environmental Protection Agency is considering a proposal made by CEA to include in its amendments to the Federal Water Pollution Control Act an "effluent fee" for industrial polluters. The fee would be applied in limited circumstances, but would represent a significant breakthrough by establishing this approach to regulation in law.

Adjustment Assistance. The Commerce Department is preparing a memo for you outlining the proposed adjustment assistance program for the footwear industry. CEA has been concerned with some elements of this plan and has been working closely with Commerce and other agencies to improve it.

THE WHITE HOUSE
WASHINGTON

cc Schultze

OECD Ministerial. My staff has been conferring daily with Treasury and other agencies on matters associated with this week's OECD Ministerial meeting in Paris.

Redlining Study. CEA will participate in an interagency study of the problem of "redlining" by mortgage lenders in urban areas. The study got underway this week.

OMB, CEA, Treasury relationships. I suspect that Bert, Mike, and I are not conferring enough with each other on matters of overall economic importance. While the EPG can do many things, I believe that as your major economic advisers the three of us ought to get together more frequently on such matters as the economic outlook, overall fiscal policy, dealing with the Fed, etc. You would be better served if we did so. Since we are all busy, I will suggest to Mike and Bert that the three of us meet once a week for breakfast. Later on we might arrange joint meetings with staff on specific agendas. good

THE WHITE HOUSE
WASHINGTON

June 27, 1977

Z. Brzezinski

The attached was returned in the President's outbox and is forwarded to you for passing on to Secretary Brown.

Rick Hutcheson

Re: Helicopter Pilot Training
Loring Air Force Base
New York Times Article on
Arms Sales to China

~~CONFIDENTIAL~~

THE SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

C

June 24, 1977

THE PRESIDENT HAS SEEN.

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Significant Actions, Secretary and Deputy Secretary of Defense (Week of June 18-24, 1977)

THE WHITE HOUSE
WASHINGTON

CC Brown

nd Thursday I joined with the Chair-
Commanders-in-Chief of the Unified
erence, an annual event, took place
. I discussed the Administration's
egy and policies, and the NSC/PRM
ty military officials share in responsibly
on combat capability and readiness in
cribed. I reminded the CINCs that the
runs from you to me (or, in my absence,
ioned our guidelines for issuance of
The CINCs hereafter will be expected to
t reports on their activities, written
to you. Several of them asked that the
ilitary officers respond to the "erosion
ng we can do better once we have developed
. Hence the timeliness of next Monday's
l on Military Compensation.

er panel, headed by Charles Zwick, will
et you and officially begin their work.
e, Charles Duncan, and the Secretaries
Burt Lance also has been invited.

Alexander testified this week on the
before both the House and Senate Veterans'
ort. Though he may not have changed many
timony and that of his military backup wit-
eteran, was well done and should supply a
ebate. The House will complete its hearings
n-government organizations, principally
lear our opposition to any legislation
that would bar payment of benefits to individuals who have met the criteria for an upgraded discharge.

Women in the Armed Forces: There have been press reports on a study I directed last January on "Use of Women in the Military." While I want to emphasize that major unanswered questions remain, this OSD study found that (1) the number of enlisted women on active duty has more than tripled since 1971; (2) active duty women are being promoted at equal or higher rates than men in all occupational specialities open to women; (3) the Services have made progress in expanding the use of women in non-traditional skills; (4) significant savings and quality improvement are possible through the expanded use of enlisted women, with cost avoidance possibilities

SecDef

~~CONFIDENTIAL~~ Declassified/Released on 12/31/89
31Dec85

SEC DEF CONTR No. X-1841

exceeding $1billion annually by 1982; and (5) with more high quality women willing to enlist than are now accepted, continued expansion of the number of enlisted women can be an important factor in making the all-volunteer force continue to work.

Helicopter Pilot Training: On Wednesday, the House Appropriations Committee, by a vote of 23-18, supported the consolidation of Undergraduate Helicopter Pilot Training, reversing the Defense Subcommittee recommendation. We understand Bob Sikes will not try to reverse the full committee recommendation on the floor (where he lost last year), but instead will await the Conference. The Senate Subcommittee has recommended maintaining a separate program for the Navy; it appears that that decision will be sustained by the full Senate committee, so that the key resolution of the issue will be in the Conference.

let Frank help

Hearings on Withdrawals from Korea: General George Brown and Philip Habib return to the Senate Foreign Relations Committee today for more closed session testimony on the Korea troop withdrawals. General Brown and General Rogers are scheduled before the House Armed Services Committee on the same subject later this month. A staff investigator of the House committee has been in Korea for about a week looking at, among other things, military cable traffic, some of which note risks involved in various possible withdrawal plans (although not in the unqualified terms General Singlaub expressed). The House hearing is likely to focus on the details and communications between the Command in Korea and the JCS which preceded announcement of the withdrawal.

Loring Air Force Base: Charles Duncan and I met with Ed Muskie this morning to discuss Loring (Maine) AFB, which is a candidate for reduction. A public hearing is scheduled for next month to review the draft environmental impact statement. I pointed out to Ed that the large reductions in DOD savings computed by a local "save Loring" committee were not accurate, and that I had no basis to evaluate or to take into direct consideration at this time other offsets such as alleged increased food stamp requirements. I did say I would see to it that the military factors were carefully reweighed. Unless some new information comes to light, the reduction action is likely to proceed, but any decision must await completion of the public hearing.

ok

New York Times Article on Israeli Request for Communications Equipment: Following your conversation with Charles Duncan yesterday about Bernard Weinraub's article, he convened the appropriate people to develop the facts. He then provided Jody Powell with information to use at yesterday's press conference. As indicated by Charles, the article was factually incorrect; Weinraub did not correct the article after our people reviewed a draft and pointed out the many inaccuracies. Some of the allegations in the article appeared to have come directly from a paper produced by Senator Case's staff. Charles provided Jody Powell backup documentation. I believe that this was a classic case of faulty (or at least incomplete) journalism. Moreover, in this case I do not believe that the false information came from the Executive Branch. Weinraub, although covering national security matters, has many sources outside the Department of Defense.

New York Times Article on Arms Sales to China: On the other hand, I think it likely that the Weinraub article on PRM-24 came from somewhere in DOD. In any event, I am extremely concerned about such a flagrant compromise of sensitive classified information. I am looking into the possible circumstances of how he (or someone else who gave it to him) could have acquired such a document. The quotations appear to be from an early draft of Part III of the study, which has not even been seen at the Deputy Assistant Secretary of Defense level, let alone by any of the principals. It may well be necessary to limit even more severely the internal access to such documents. Unfortunately, to do so will also make it more difficult to have the benefit of a wider range of views in policy formulation. Nevertheless, for the more sensitive issues we will probably have to accept that penalty.

I agree

Defense Appropriations Bill: The House is scheduled to begin debate today on the Appropriations Bill. We anticipate proposed amendments to delete procurement funds for the B-1 (an annual effort by Congressman Addabbo) and some form of proposal against troop withdrawal from Korea. We do not anticipate adoption of any amendments which would seriously affect major weapons programs.

Harold Brown

THE PRESIDENT HAS SEEN.

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

June 24, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: Charles Warren
Gus Speth GS.
Marion Edey

SUBJECT: Weekly Status Report

Alaska Gas Pipeline: Put final touches on our report to you, required by the Alaska National Gas Transportation Act, providing CEQ's views on the sufficiency of the EIS' on the pipeline alternatives and on the comparative environmental impacts of each route; our report will be submitted to you early next week and be made available to the public a day or two later.

Clinch River Breeder Reactor: Continued to lobby the Hill in support of the Administration's position on this issue.

Reprocessing Spent Nuclear Fuel: CEQ staff assisted Jim Schlesinger's staff in preparing Administration's response to NRC concerning pending NRC reprocessing licensing proceeding (GESMO).

Tellico Dam Case: Met with Domestic Council, Justice Department, Interior to determine unified administration course of action on a TVA legal brief in the Supreme Court concerning the Endangered Species Act and the Tellico Dam; the position taken in the TVA brief is at odds with Administration policy on the Act and, if adopted by the Court, could have potentially serious implications for other Administration policies and programs.

Water Pollution Legislation: Met with EPA to continue developing the Administration's position on amendments to the Federal Water Pollution Control Act; continued to lead an interagency drafting committee concerning amendments to the Act's wetlands protection provisions.

THE PRESIDENT HAS SEEN.

THE SECRETARY OF THE TREASURY

WASHINGTON

F.Y.I.

June 24, 1977

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Highlights of Treasury Activities

Mike Blumenthal and Cy Vance, accompanied by Senator Ribicoff and Congressman Steiger, left Wednesday for the OECD Ministerial in Paris and are expected back tonight.

1. TAX REFORM

The day before he left for Paris the Secretary concluded a series of six meetings with special interest groups to hear their views on what the tax-reform package should contain. The meetings created considerable press interest, and we are planning next week to make available our informal notes on these meetings to journalists who request them. We may want to hold some additional meetings as well. (Mike also briefed Secretaries Califano, Kreps and Marshall this week on tax reform.)

2. ENERGY BILL

We are pleased with the results of your breakfast Wednesday for Ways and Means Committee members, and the Committee's actions this week have generally supported Administration proposals:

(a) A Pike substitute to the industrial use tax, to be imposed in two tiers: a lower rate for process fuels intended to encourage conservation and a higher rate for boiler fuel intended to encourage both conservation and conversion later on;

(b) Exemption from tax of those fuel uses mandated by statutes on clear air standards;

(c) A rebate for industries and utilities currently using oil or gas if they convert to coal usage;

(d) An investment credit to businesses not benefitting from the coal conversion credit if they install energy-saving equipment;

(e) A crude oil tax rebate to individuals (though limited to one year);

(f) Adoption of the Administration's proposal with respect to the treatment of oil and gas intangible drilling costs under the minimum tax provisions;

(g) A depletion allowance and expensing of intangible drilling costs for wells to tap geothermal energy;

(h) An additional investment tax credit for the purchase of waste recycling equipment; and

(i) Defeat of an amendment which would have weakened the gas-guzzler tax provisions approved earlier.

3. INTERNATIONAL FINANCIAL INSTITUTIONS

Despite your letters to Congressmen O'Neill and Rhodes, by a vote of 295 to 115 the House Wednesday approved the Young amendment to the IFI appropriations bill prohibiting U.S. contributions to international lending institutions to be used as loans to Vietnam, Laos, Cambodia, Cuba, Uganda, and Ethiopia. (Mozambique and Angola were added to the list Thursday.) A substitute offered by Congressman Conte was ruled out of order.

By a vote of 200 to 161, the House last Friday defeated a move to instruct conferees to insist on the Badillo human rights amendment to the IFI authorization bill. Henry Reuss is playing a leading role, and we are hopeful for adoption in conference of moderate language close to the version earlier voted by the Senate.

4. NEW YORK CITY PROBLEMS

The Secretary has asked me and Assistant Secretary Altman to meet with Mayor Beame in New York later today to discuss a series of City actions which are required by the Seasonal Financing Act. Among other things, we are requesting (a) an improved plan for NYC doing some of its own seasonal borrowing during this coming year, and (b) a plan to be submitted here by September 30 specifying City actions to maintain a balanced budget for the fiscal year beginning July 1978. We need the latter to prepare for possible legislation to extend federal lending beyond the expiration of the present program. Our relations with City officials are good, and we expect them to cooperate on these requests.

5. U.S.-CANADA EXCHANGE OF TAX INFORMATION

IRS Commissioner Kurtz met on June 16 in Ottawa with Canadian Minister of National Revenue Begin to set up a working arrangement for simultaneous examinations of tax returns.

The tax treaty between the United States and Canada provides for the exchange of information to carry out treaty purposes and prevent fiscal evasion. The confidentiality of taxpayer information exchanged is guaranteed by the treaty.

6. ADDITIONAL HEROIN SEIZURES

Two very large heroin seizures, totaling 46.5 pounds, were made by Customs personnel this week in Rio Grande City and Presidio, Texas. Both seizures were similar to two large seizures of last week; the heroin was concealed in the side panels of cars. Value of the four seizures is estimated at over $32 million.

Bob Carswell

Robert Carswell
Acting Secretary

THE PRESIDENT HAS SEEN.

C

Office of the Attorney General
Washington, D. C. 20530

June 24, 1977 PM 2 55

Re: Principal activities of the Department of Justice for the week of June 20 through 24

1. Meetings and Events

The Attorney General met on Monday with Bob Lipshutz and Bill Gunter to discuss progress in the attempt to settle the Maine Indian claim, and with Chairman Peter Rodino of the House Judiciary Committee to discuss initiatives in the undocumented alien area; met on Tuesday with Senators Mathias and Javitt to discuss the possibility of appointing a Blue Ribbon Commission to study the antitrust law; attended the Wednesday luncheon of the George Washington University Association in his honor; attended a seminar on economics and business conducted by Eliot Janeway on Thursday; spoke Friday morning to the Fourth Circuit Judicial Conference at the Homestead in Hot Springs, Virginia, on initiatives for the improvement of the administration of justice; and spoke Friday evening to the National Association of College & University Attorneys on Federal government--university relations. On Wednesday the Deputy Attorney General spoke to the Federal Bar Association in Philadelphia on the topic of white-collar crime.

The Attorney General testified Wednesday before a subcommittee of the House Judiciary Committee on "State of the Judiciary"; Michael Shaheen, Counsel for the Office of Professional Responsibility, testified Tuesday before a subcommittee of the House Government Operations Committee on the Department's procedures for investigating complaints of alleged wrongdoing by Department employees; John Shenefield testified Thursday before a subcommittee of the Senate Judiciary Committee on the antitrust aspects of the President's energy program.

2. Lockheed Shipbuilding Case

The Attorney General received a briefing this week from the Criminal Division and the Civil Division on the development of the investigation of alleged fraud in Lockheed Shipbuilding contracting with the Government.

3. FBI/DEA Merger

The Attorney General has recieved a report on the feasibility of an FBI assumption of the drug enforcement effort from a 7-man FBI team appointed by the Attorney General in March. The Attorney General is reviewing the report to determine whether to proceed with further study of this possibility.

4. Canadian Visit to the Department of Justice

Tony Abbott, Minister for Consumer and Corporate Affairs for Canada, visited the Justice Department on Wednesday. He was one of the participants in the discussion in Ottawa last week. Minister Abbott met with Michael Egan, John Shenefield, and lawyers from the Antitrust Division, following up on the discussions held in Ottawa.

5. Corrections Policy

Deputy Attorney General Flaherty is chairing a Department Task Force charged with the responsibility of developing a Federal corrections policy and developing guidelines defining acceptable living conditions in Federal and state prisons and jails. It is expected that the Task Force will report to the Attorney General prior to September 1, 1977.

6. John Shenefield

The Attorney General has recommended the name of John Shenefield to the President for the position of Assistant Attorney General in charge of the Antitrust Division. Mr. Shenefield has been Acting Assistant Attorney General in that Division for several weeks.

7. Appointment of Staff for the Deputy Attorney General

Deputy Attorney General Flaherty has named Bruce Campbell of Pennsylvania, Larry Gibson of Maryland and Walter Fiederowicz of Connecticut as Associate Deputy Attorneys General. In addition, Faye Hewlett of Virginia has been named as Executive Assistant to the Deputy Attorney General.

8. Washington State Salmon Fishing Controversy

The Administration's Task Force on the Washington State Salmon Fishing Controversy continued preparation for the opening of the salmon fishing season on June 26. With the help of the White House, Task Force efforts have been coordinated with the Department of Transportation and the Coast Guard to plan for enforcement of International Pacific Salmon Fishing Commission (IPSFC) regulations and Department of Interior regulations which will allow Indians extra fishing days in the IPSFC Fishery.

The State Department has approved the IPSFC regulations for the season except as to treaty Indians exercising treaty-secured fishing rights. Indian fishing will be governed by regulations issued by the Department of Interior. Under the regulations, the fishery will be open to all fishermen on Monday and Tuesday (June 27 and 28) and open only to Indians on Wednesday and Thursday (June 29 and 30).

The Task Force has met previously with the Washington Congressional delegation, and this week Ann Wexler, Deputy Under Secretary for the Department of Commerce and other Department of Commerce officials have been in Washington State for a series of meetings with the Governor, state officials, and Indian and non-Indian fishermen to discuss and publicize the Interior regulations and the Government's intention to enforce the regulations. These officials will remain in Washington through the opening of the season.

The U. S. Attorney's Office in Seattle, the United States Marshals Service, the Coast Guard and the National Marine Fisheries have developed and are prepared to implement detailed enforcement plans. In addition, the Department of Justice is ready to defend possible law suits against the Departments of Interior, Commerce and State arising out of this effort.

THE SECRETARY OF THE INTERIOR

WASHINGTON

June 24, 1977

1977 JUN 24 PM 5 03

C

MEMORANDUM TO THE PRESIDENT

FROM: The Secretary of the Interior

SUBJECT: Major Topics for the Week of June 20

Permit me to express a personal concern. Your involvement last evening made it possible for our party to have a successful fund raiser, but the physical abuse you took by working the crowd was uncalled for. I would hope that you won't let them do that to you again.

While I'm on this subject, let me say that Stu Eizenstat is pushing himself too hard. He won't be available to help us if his health fails.

Don Reynolds and Fred Smith of Donrey Media were appreciative of our involvement in their annual meeting and asked to be remembered. (They are the newspaper chain that supported you in Hawaii, Nevada, and New Mexico.)

There are no major problems this week, but I will ask for Cabinet support on finalization of our Redwood Proposal.

Cecil D. Andrus

CECIL D. ANDRUS

THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

June 24, 1977

1977 JUN 24 PM 3 57

MEMORANDUM FOR: The President

SUBJECT: Weekly Report of Major Departmental Activities

The following are brief descriptions of significant activities at the Department of Housing and Urban Development.

Block Grant Strategy for Boston. The Department has developed a strategy for handling the third year community development block grant application from the City of Boston in order to avoid the continuation of certain past racial problems related to use of block grant funds. We plan to condition the grant contract to prevent expenditure of third year funds in overwhelmingly white neighborhoods where minorities have been excluded or driven from public housing until Boston develops specific neighborhood fair housing plans.

HUD Reviews Rehabilitation Loan Program. The Department has begun an intensive review of its Section 312 Rehabilitation Loan program to streamline our processing and make the program more responsive to local needs. Local public officials have been asked to provide advice and assistance in identifying ways to improve the 312 program, under which HUD makes low interest loans for the rehabilitation of residential and business properties.

Section 8 Construction Starts Show Major Gains. As of June 17, the Department has recorded construction starts for 52,979 units to be assisted under the Section 8 Housing Assistance Payments program. We are now confident that we will be able to meet our goal of 80,000 Section 8 starts during Fiscal Year 1977, which would be more than double the number of Section 8 starts in any prior fiscal year.

College Housing Program Reactivated. The Department has announced the availability of $155.8 million in new funding under the College Housing Direct Loan program. These funds, available during Fiscal Year 1977, can be used for rehabilitation of existing college dormitories to reduce fuel costs and for the construction or rehabilitation of housing on college campuses with a severe housing shortage.

Urban and Regional Policy Group Deals With Redlining Issue. On June 22, the group's deputies and representatives of the federal financial regulatory agencies, secondary mortgage market agencies, and other affected federal agencies discussed development of recommendations to eliminate redlining. Among the issues to be considered are federal, state and local laws and regulations affecting redlining by appraisal and underwriting standards, insurance redlining, the role of local private groups and the private mortgage insurance industry, and non-regulatory remedies to redlining.

HUD Announces Appointments of Ten New Regional Administrators. On Wednesday, June 22 the Department announced the appointment of ten new Regional Administrators. Every Democratic Member of Congress was notified by telephone prior to issuance of a formal press release.

Conference Set on Fiscal Year 1978 Authorization Bill. House and Senate conferees will begin meeting on Tuesday, June 28 on HUD's Fiscal Year 1978 authorization bill. Major issues in conference include:

- The Williams-Brooke Impaction Amendment which would provide additional Community Development Block Grant funds to a small group of distressed cities by diverting funds intended for the $400 million Urban Development Action Grant program.

- The Community Reinvestment title, adopted by the Senate, which is designed to encourage a higher level of inner-city mortgage lending by financial institutions.

- A Proxmire amendment resulting in a 10% reduction in the number of assisted housing units authorized for Fiscal Year 1978.

The Department is urging the conferees to keep the $400 million Action Grant program intact, to drop the Williams-Brooke impaction formula, and to restore to 400,000 the number of authorized units of assisted housing.

Pat

Patricia Roberts Harris

United States of America
General Services Administration
Washington, D.C. 20405

Administrator

THE PRESIDENT HAS SEEN.

June 24, 1977

1977 JUN 24 PM 1 56

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Weekly Report on GSA Activities

Project VOTRAKON - Saudi Arabia

Early this year, we were approached by the Bureau of International Labor Affairs at the Department of Labor requesting our assistance in being their agent to plan, design, construct and equip 25 vocational training facilities in Saudi Arabia. This would include construction of new facilities and rehabilitation of existing facilities the cost of which has been estimated to be $2 billion.

We plan to manage our portion of the project with a limited number of GSA personnel and to utilize the services of a Construction Manager Contractor and a Master Plan/Design Contractor. Twenty-seven responses were received from interested firms for the Construction Manager Contract; seven finalists were selected and issued a Request for Technical Proposals which were submitted on June 15. We expect to have made a final selection and contract award by mid-July.

Forty-five responses were received from interested firms for the Master plan/Design Contract; nine finalists were selected and interviews are now in progress. We expect to recommend the top three, ranked in order of preference, to the Saudis for a final selection by early August. I am personally attending as many of these interviews as my schedule permits.

Joel Solomon

JOEL W. SOLOMON
Administrator

THE SECRETARY OF COMMERCE
Washington, D.C. 20230

June 24, 1977

"FYI"

C

THE PRESIDENT HAS SEEN.

1977 JUN 24 PM 6 52

REPORT TO THE PRESIDENT

Shoe Industry Program

Early next week we will submit to you our decision memorandum outlining the program for revitalizing the shoe industry. The program will emphasize voluntary self-help by the industry; special teams to assist firms in production, management, and financing; and limited government financial aid to revitalize firms adversely affected by trade. At a cost of no more than $60 million over the next 3 years--of which 2/3rds would be recoverable loans--and without new legislation, the program should restore much of the industry to health and lessen protectionist pressures.

Trade Adjustment Assistance

Final proposals to revamp our general trade adjustment assistance program, accompanied by draft legislation, will follow in the next few weeks. EPG reviewed a number of options on June 13 and asked that the details of one option be developed further. The broad elements of that option are: (a) the removal of administrative and legislative bottlenecks to providing adjustment assistance in a timely manner; (b) new program initiatives to effectively increase worker, firm, and community assistance; (c) the targeting of these initiatives on an industry basis; and (d) organizational reforms to improve the delivery and coordination of trade adjustment assistance. We believe this new program will significantly improve your ability to pursue free trade policies.

Cyber 76

On Thursday, June 23, the Department announced the denial of Control Data Corporation's license application to export a Cyber 76 computer to the USSR, following the finding that there was a significant risk of its diversion to military use and inadequate safeguards to prevent such an application. This decision was reached in accordance with established procedures, including extensive consultations with State and Defense. It is not certain that the issue is closed because Control Data has the right to appeal this decision within the Department; there is also the possibility that they might pursue the issue in court.

Local Public Works

As you know, some applicants and Congressional representatives have been critical of the approach we used in distributing the $4 billion in Local Public Works funds. For a time, it appeared that the concerns on the part of a relatively few Members--primarily persons with rural constituencies--might lead to oversight hearings that could delay the program substantially. Many of the complaints arose from the fact that, in accordance with legislative intent, the second round funds were allocated to the areas of highest unemployment, a distribution that often did not coincide with the number and dollar level of applications left over from the program's first round in December.

Since any delay would be contrary to the program's objective of taking advantage of the current construction season, I am pleased to advise you that we have succeeded in defusing the pressure for hearings. You should also know that despite these individual criticisms--a circumstance unavoidable when only $4 billion is available for pending applications of $22 billion in projects--the response to the program has in general been quite favorable.

Implementation of Anti-boycott Legislation

The Department has begun the process of preparing regulations to implement the new Export Administration Act. Although some provisions took effect when you signed the Act, most anti-boycott provisions will become effective in mid-January, 210 days after enactment. The Act requires that proposed regulations be issued within 90 days, final regulations 120 days thereafter. We will encourage full and open participation by the public - including the Business Roundtable and Jewish groups - in the rulemaking process. All public comments received will be a matter of public record.

Juanita M. Kreps

Juanita M. Kreps

THE PRESIDENT HAS SEEN.

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

C

1977 JUN 24 PM 2 ...

June 24, 1977

MEMORANDUM TO THE PRESIDENT

THROUGH Jack Watson
Secretary to the Cabinet

SUBJECT: Weekly Report

WEATHER DEVELOPMENTS. Rains brought improved soybean planting conditions to south central states, where planting is 80 percent complete. Winter wheat is 26 percent combined; corn is good, especially in north central states.

BEEF/PORK PRICES. Little change in farm retail meat prices; choice beef retail prices continue lower to $1.39 a pound, pork higher to $1.23 (still 18 cents below a year ago). Wholesale demand for beef continues weak.

WORLD FOOD SECURITY SYSTEM. At World Food Council in Manila, Secretary Bergland stated that U.S. will support world food security system to include reserve to be financed by both exporting and importing nations. Secretary also said U.S. had recently agreed to contribute up to 125,000 tons to emergency international food reserve.

ARGENTINE WHEAT SALE TO CHINA. Confirmation of sale of additional 200,000 metric tons of Argentine wheat to People's Republic of China, although sale itself was probably made some time ago. People's Republic has contracted about six million tons from all origins for 1977/78.

John C. White

JOHN C. WHITE
Acting Secretary